

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEVIN YAN LUIS, et al.,

Plaintiffs,

-against-

MOLTON BROWN USA LLC,

Defendant.

Case No. 1:22-cv-06471 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

Plaintiff alleges that Defendant’s website is not accessible to blind and visually impaired customers and, thus, violates Title III of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12181 *et seq.* On September 27, 2022, in accordance with the Court’s September 14, 2022 briefing schedule regarding the motion to dismiss (ECF No. 6), Defendant filed a motion to dismiss the Complaint for lack of jurisdiction. ECF No. 9. On October 18, 2022, Plaintiff filed an Amended Complaint pursuant to the Court’s September 14, 2022 Order. ECF No. 13.

The Second Circuit has held that “when a plaintiff properly amends her complaint after a defendant has filed a motion to dismiss that is still pending, the district court has the option of either denying the pending motion as moot or evaluating the motion in light of the facts alleged in the amended complaint.” *Pettaway v. Nat’l Recovery Sols., LLC*, 955 F.3d 299, 303–04 (2d Cir. 2020) (citing *Conforti v. Sunbelt Rentals, Inc.*, 201 F. Supp. 3d 278, 291 (E.D.N.Y. 2016)). The Second Circuit explained that courts have this option to “promote[] judicial economy by obviating the need for multiple rounds of briefing addressing complaints that are legally insufficient.” *Id.* In this action, Plaintiff has filed an amended complaint in response to Defendant’s motion to dismiss the original complaint. ECF No. 13. The Court now exercises its discretion to dismiss the motion to dismiss as moot, without prejudice to refile it with respect to the amended complaint.

Additionally, by separate Order today, the Court is referring this case to the assigned Magistrate Judge for both for General Pretrial Purposes, including settlement.

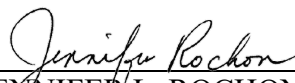
In addition, to conserve resources, to promote judicial efficiency, and in an effort to achieve a faster disposition of this matter, it is hereby ORDERED that the parties must discuss whether they are willing to consent, under 28 U.S.C. § 636(c), to conducting all further proceedings before the assigned Magistrate Judge. If all parties so consent, counsel shall file on ECF a fully executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form, available at <https://www.nysd.uscourts.gov/forms/consent-proceed-us-magistrate-judge>.

If the parties do so, and the Court so orders the form, all further proceedings will then be conducted before the assigned Magistrate Judge rather than before the undersigned. There will be no adverse consequences if the parties do not consent to proceed before the Magistrate Judge.

The Clerk of Court is respectfully directed to terminate the motion pending at ECF No. 9.

Dated: October 19, 2022
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge